

DOCKET FILE COPY ORIGINAL **RECEIVED**

HOGAN & HARTSON
L.L.P.

SEP 14 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Writer's Direct Dial
(202) 637-8537

COLUMBIA SQUARE
555 THIRTEENTH STREET, NW
WASHINGTON, DC 20004-1109
TEL (202) 637-5600
FAX (202) 637-5910

September 14, 1998

BY HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

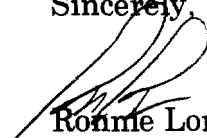
Re: *Petition of Washington Utilities and Transportation Commission, et al., Petition for Agreement with Designation of Rural Company Eligible Telecommunications Carrier Service Areas at the Exchange Level and for Approval of the Use of Disaggregation of Study Areas for the Purpose of Distributing Portable Federal Universal Service Support in CC Docket No. 96-45., DA 98-1691*

Dear Ms. Salas:

I am enclosing an original and six (6) copies of the Comments of Western Wireless Corporation in response to the Commission's Public Notice of August 24, 1998, in the above-captioned matter. Pursuant to the Public Notice, I am providing three paper copies and one diskette copy to Sheryl Todd, and one paper copy and one diskette copy to International Transcription Service.

If you have any questions regarding this filing, please contact me directly.

Sincerely,



Ronnie London
Counsel for Western Wireless Corporation

Enclosures

cc: Service List

No. of Copies rec'd
List ABCDE



**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

RECEIVED

SEP 14 1998

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of)	
)	
Petition of Washington Utilities)	CC Docket No. 96-45,
and Transportation Commission, et al.,)	DA 98-1691
for Agreement with Designation of Rural)	
Company Eligible Telecommunications)	
Carrier Service Areas at the Exchange)	
Level and for Approval of the Use of)	
Disaggregation of Study Areas for the)	
Purpose of Distributing Portable)	
Federal Universal Service Support)	

COMMENTS OF WESTERN WIRELESS CORPORATION

Western Wireless Corporation ("Western Wireless"), by its attorneys,
submits these Comments in response to the Commission's Public Notice of
August 24, 1998, DA 98-1691.

INTRODUCTION

Western Wireless is a cellular and personal communications service
("PCS") carrier specializing in the provision of high-quality, affordable, and reliable
wireless services to subscribers in both rural/high-cost and higher-density urban
areas. Western Wireless currently provides commercial mobile radio service
("CMRS") to more than 700,000 subscribers under licenses in Washington and 21
other states, covering over 60 percent of the continental United States as well as

Hawaii. Western Wireless provides PCS in southern Washington and will soon begin serving Seattle and surrounding communities, as well as eastern Washington.

Western Wireless is eager to provide universal service and to help realize the goals of Section 254 of the Act. Western Wireless is therefore actively participating in a number of proceedings relating to universal service before the FCC and state commissions. Western Wireless has significant experience providing high-quality wireless telecommunications services in high-cost and urban areas across the U.S., over both fixed wireless local loops and conventional mobile cellular and PCS technologies. Western Wireless believes that in many areas of the country, high quality supported services can be provided using wireless technologies more efficiently and at lower cost than by using the wireline systems of incumbent local exchange carriers ("ILECs").

In light of Western Wireless' interest in providing supported services in the state of Washington and throughout its service area, it is critical to Western Wireless that the Commission adhere to its overall policy goals of *technological and competitive neutrality* in the system for supporting universal service in high-cost and rural areas. ^{1/} To achieve this goal, the Commission must ensure, first, that consumers in high-cost and rural areas have the right to choose to obtain supported

^{1/} This goal already has been endorsed by the Commission and the Joint Board. *Federal-State Joint Board on Universal Service*, First Report and Order, 12 FCC Rcd 8776, 8858, 8932, ¶¶ 145, 287 (1997), *pet. for review pending* ("Universal Service Order").

services from CMRS providers and other new entrants as well as from ILECs. Second, there must be parity between the explicit and implicit revenue support available to all eligible telecommunications carriers, regardless of those carriers' technologies, rate structures, or regulatory status. 2/ Third, support must be available for mobile, as well as stationary, services that meet the Commission's definitions of supported universal service, and for wireless as well as wireline local loops. Finally, the establishment of service areas for universal service support purposes should promote, rather than discourage, entry by competitive carriers providing service supported by universal service support mechanisms, including CMRS providers.

Because the captioned Petition furthers these goals, Western Wireless supports the Petition and concurs with the Washington Utilities and Transportation Commission's ("WUTC") effort to establish, where appropriate, service areas for eligible telecommunications carriers ("ETCs") other than carriers' "study areas."

2/ To the extent that there is a delay in identifying and funding the incumbent local exchange carriers' implicit subsidy flows in a competitively neutral manner, competitive entrants should be able to receive a comparable amount based on the forward-looking cost models.

DISCUSSION

Western Wireless believes that, consistent with the Commission's principal universal service order, ETC "service areas" should be designated, pursuant to Section 214(e)(5), for the smallest practicable geographic areas. ^{3/} As the FCC has observed, this would be the optimal approach to ensure competitive neutrality, ^{4/} given that ETCs are required to provide service upon demand to all consumers throughout a designated "service area." Due to this requirement, service areas that are too large or unwieldy can and will impede the evolution of new ETCs and the competition they foster.

Establishing new telecommunications service in any new rural or high-cost area is a capital-intensive undertaking, particularly where a new entrant desires to become an ETC, given that such status cannot be attained using solely resold services. ^{5/} The larger the designated ETC service area, the more expensive it is for a carrier to enter the service area and be designated as an ETC by providing services supported by federal universal support mechanisms throughout the whole

^{3/} *Id.* at 8879-80, ¶¶ 184-85.

^{4/} *Id.*

^{5/} See 47 U.S.C. § 214(e)(1) (a common carrier must offer services supported by federal universal support mechanisms throughout a service area "either using its own facilities or a combination of its own facilities and resale of another carrier's services"); *Universal Service Order*, 12 FCC Rcd at 8875-76 ("we cannot exercise our forbearance authority to permit 'pure' resellers to become eligible for universal service support").

of the service area. 6/ Moreover, in many cases, rural telephone companies' study areas include geographic areas that are not contiguous, and in some cases, some but not all of these geographically dispersed areas are within a wireless carrier's FCC-authorized service area. Thus, designating ETC service areas that are as small as practicable -- particularly in rural areas that may encompass large geographic areas -- accords a greater number of carriers the opportunity to enter into the markets defined by such ETC service areas. Allowing state commissions like the WUTC to disaggregate rural ETC service areas as proposed in the instant Petition therefore furthers the competitive goals of the Telecommunications Act of 1996.

This is particularly true in the case of CMRS providers like Western Wireless. The geographic areas which CMRS providers are licensed to serve do not necessarily correspond with those encompassed by conventional ILEC study areas, particularly those serving potentially vast rural areas. 7/ Western Wireless does not necessarily object to the use of ILEC exchanges or wire centers to define ETC service areas, but in some cases, if a wireless carrier's FCC-authorized geographic footprint does not include all of an ILEC's exchange or wire center, a smaller ETC

6/ *Accord*, WUTC Petition at 3 ("The broader the service area, the greater (and more costly) the service obligation.").

7/ *Accord*, *id.* at 9 (discussing designation of U.S. Cellular as an ETC) ("Because wireless and wireline service territories are geographically different, it would generally be impossible for either one to compete in the other's service area or service territory if the areas were [too large].").

service area may be need to enable the wireless carrier to be designated as an ETC for that service area.

Wireless carriers such as Western Wireless can and must play a meaningful role in the provision of the basic telecommunications services supported by federal universal support mechanisms, especially in rural areas. Permitting the disaggregation of study areas for purposes of distributing portable federal universal service support facilitates those efforts by increasing the likelihood that a wireless carrier's footprint will include all of a designated ETC service area. The Commission should therefore support the WUTC's efforts in designating ETC service areas that are as small and manageable as practicable.

Western Wireless also supports the Petition's request for acceptance of an alternate methodology for distribution of portable universal service funds to facilitate the WUTC's designation of smaller-than-study-area ETC service areas. As demonstrated by the WUTC, the alternate methodology is necessary to avoid anti-competitive effects if the request to allow disaggregation of study areas is granted. 8/ In light of this, and the other cited pro-competitive effects of the alternate methodology, the Commission should approve the WUTC's proposal.

8/ *Id.* at 13.

CONCLUSION

For the foregoing reasons, the Commission should grant the WUTC's Petition and approve the use of disaggregation of study areas for purposes of distributing federal universal service support in the state of Washington, as well as the WUTC's use of an alternate methodology for distributing portable universal service funds for the disaggregated service areas.

Respectfully submitted,

WESTERN WIRELESS CORPORATION

Gene DeJordy
Executive Director of Regulatory Affairs
WESTERN WIRELESS CORPORATION
3650 - 131st Ave. S.E., Suite 400
Bellevue, WA 98006
(425) 586-8055

By: David Sieradzki

Michele C. Farquhar
David L. Sieradzki
Ronnie London
HOGAN & HARTSON, L.L.P.
555 13th Street, N.W.
Washington, D.C. 20004
(202) 637-5600

Counsel for Western Wireless
Corporation

Dated: September 14, 1998

CERTIFICATE OF SERVICE

I, Cecelia Burnett, hereby certify that on this 14th day of September, 1998, copies of the foregoing Western Wireless Corporation Comments were served on the parties listed below by hand delivery or first class mail.


Cecelia Burnett

Jeffrey D. Goltz, Esq.
Assistant Attorney General
1400 S. Evergreen Park Drive, S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(counsel for WUTC)

Robert S. Snyder, Esq.
1000 Second Avenue, 30th Floor
Seattle, WA 98104
(counsel for Hat Island Telephone Company, Hood Canal Telephone Company, Inc., Inland Telephone Company, Kalama Telephone Company, Pioneer Telephone Company, St. John Co-operative Telephone and Telegraph Company, Tenino Telephone Company, Western Wahkiakum County Telephone Company, and Whidbey Telephone Company)

Richard A. Finnegan, Esq.
2405 South Evergreen Park Drive, S.W.
Suite B-3
Olympia, WA 98502
(counsel for Asotin Telephone Company, CenturyTel of Cowiche, Ellensburg Telephone Company, CenturyTel of Washington, Mashell Telecom, Inc., Lewis River Telephone Company, McDaniel Telephone Company, Pend Oreille Telephone Company, The Toledo Telephone Co., Inc., United Telephone Company of the Northwest, and Yelm Telephone Company)

Sheryl Todd (3 copies and diskette)
Federal Communications Commission
Common Carrier Bureau
2100 M Street, N.W.
Eighth Floor
Washington, D.C. 20554

ITS (1 copy and diskette)
1231 20th Street, N.W.
Washington, D.C. 20554

Kathryn Brown
Bureau Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

James Schlichting
Deputy Bureau Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

Lisa Gelb, Chief
Accounting Policy Division
Common Carrier Bureau
Federal Communications Commission
2100 M Street, N.W., 8th Floor
Washington, D.C. 20554

Craig Brown
Deputy Chief
Accounting Policy Division
Common Carrier Bureau
Federal Communications Commission
2100 M Street, N.W., 8th Floor
Washington, D.C. 20554

Lisa Sockett
Special Assistant to the Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Suite 500
Washington, D.C. 20554

Charles L. Keller
Accounting Policy Division
Common Carrier Bureau
Federal Communications Commission
2100 M Street, N.W. 8th Floor
Washington, D.C. 20554